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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

EMILIO AGUIRRE,

Petitioner,

v.

ERIC H. HOLDER, JR., Attorney General,

Respondent.

No. 08-70318

Agency No. A074-804-434

MEMORANDUM<sup>\*</sup>

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted February 18, 2009<sup>\*\*</sup>

Before: BEEZER, FERNANDEZ, and W. FLETCHER, Circuit Judges.

Emilio Aguirre, a native and citizen of Mexico, petitions pro se for review of the Board of Immigration Appeals' denial of reconsideration. Our jurisdiction is governed by 8 U.S.C. § 1252, and we deny the petition for review.

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<sup>\*</sup> This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

The Board affirmed the denial of Aguirre's application for suspension of deportation in 2002, and it denied his two motions to reopen as untimely and numerically barred in 2003 and 2005. He contends that the Board should have granted his subsequent motion to reopen and reconsider because, due to his medical condition, he can establish extreme hardship under former 8 U.S.C. § 1254(a).

As we concluded upon Aguirre's previous petition for review, *see Aguirre v. Gonzales*, No. 05-76847, 2007 WL 654343 (9th Cir. Mar. 1, 2007) (unpublished memorandum disposition), the Board acted within its discretion in denying relief, *see Valeriano v. Gonzalez*, 474 F.3d 669, 672 (9th Cir. 2007). We lack jurisdiction to review the Board's failure to exercise its sua sponte power to reopen proceedings. *See Ekimian v. INS*, 303 F.3d 1153, 1159 (9th Cir. 2002).

**PETITION FOR REVIEW DENIED.**